IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 818 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AKHIL GUJARAT VIDYUT KAMDAR SANGH & 1 - Petitioner(s)

Versus

G E B & 4 - Respondent(s)

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Appearance :

NOTICE SERVED for Petitioner(s) : 1,NOTICE UNSERVED for Petitioner(s) : 2,

RULE SERVED for Respondent(s) : 1,4 - 5.

RULE UNSERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 30/01/2006

ORAL JUDGMENT

1. The petitioners i.e. Akhil Gujarat Vidyut Kamdar Sangh and Govindbhai Dahyabhai Patel have filed this petition under Article 226 of the Constitution of India praying for declaration that the order of promotion dated 25th March 1985 by the Superintending Engineer (O&M) Sabarmati of the respondent Board, promoting the present respondent Nos. 2 to 5 to the post of Meter Tester, is bad in law. The petitioners have also prayed for the direction to the respondents to promote the petitioner no.2 to the post of Meter Tester.

2. It is the case of the petitioners that the petitioner no.2 joined in the service of the respondent no.1 G.E.B. on or about 21st September, 1971 as Helper and was thereafter on or about 15th January, 1983 was promoted to the post of “Assistant Linesman”. The petitioner no.2 was working in the said post at the the time when the

petition was filed. The next promotion from the said post was to the post of “Meter Tester”. It is also the case of the petitioners that in total disregard of the petitioner no.2's seniority in his service as Helper and thereafter as Assistant Linesman, the Superintending Engineer (O&M) Sabarmati, issued office order dated 25th March, 1985 promoting the respondent nos.2 to 5 to the post of Meter Tester in pay-scale of Rs.290-320-392-512-733. The petitioner no.2 has given all the necessary particulars and from the perusal of the said particulars, it is the case of the petitioner that petitioner no.2 was a senior most to all respondent nos. 2 to 5 except one Mr.S.S.Bhatt, respondent no.3, who was senior to the petitioner no.2 both as “Helper” and “Assistant Linesman”. The respondent nos.4 and 5 namely Mr.S.J.Valand and M.A.Pathan respectively were never promoted from the post of Helper to the higher post and have been promoted to the post of Meter Tester directly by order dated 25th March, 1985.

3. It is also the case of the petitioners that the

petitioner no.2 was holding all qualifications, as against which respondent no.3 has passed only 9th Standard and has not passed the examination of Electrical Supervisor. The same was the case of the respondent no.4 who did not possess qualification for the said post.

4. It is therefore submitted that the petitioner no.2 was not considered and was completely ignored while making the impugned promotion order dated 25th March, 1985. The said promotion order was challenged on the ground that the order was passed in complete violation of seniority of petitioner no.2 and also in complete disregard of the qualification of the petitioner no.2. It is also the case of the petitioners that the advertisement given inviting applications for the posts of Meter Tester was arbitrary and in capricious manner. It is therefore submitted that impugned order deserves to be quashed and set aside.

5. Petition was admitted and rule was issued by this Court on 28.08.1996 and the interim relief was

granted. The petition was filed by the learned advocate who was later on elevated to the Bench of this Court. Thereafter, fresh notice was issued on the petitioner no.1 and the petitioner no.1 was duly served whereas petitioner no.2 was not found on the address given in the memo of petition. In any case, petitioner no.1 is the representative union representing the petitioner no.2 and despite service of fresh notice, the petitioner no.1 did not appear in the matter.

6. The petition is of the year 1986 and 19 years have passed. The petitioner no.2 might have retired from service. He might not have any interest in prosecuting the matter. Be that as it may, the Court is not inclined to adjourn the matter. The petition, is therefore, disposed of, for want of prosecution reserving the liberty to the petitioner no.2 to move this court in case of difficulty if the need so arises in future.

7. Subject to the aforesaid directions and observations this petition is accordingly disposed

of. Rule is discharged without any order as to costs.

(K.A.PUJ, J.)

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